



Office of the Attorney General  
State of Texas

July 22, 1993

DAN MORALES  
ATTORNEY GENERAL

Ms. Margaret Messina  
City Attorney  
City of Granbury  
P. O. Box 969  
Granbury, Texas 76048

OR93-483

Dear Ms. Messina:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. art. 6252-17a. Your request was assigned ID# 20574.

The Granbury Police Department (the "department") received an open records request for

all public information retrievable in a search of files listed under the above referenced name and/or social security number. Please also inform me if the above referenced name and/or social security number is contained in any other 'See Reference' files, (i.e. Deed Records, Marriage/Divorce Records, Real Property Records, Probate Records, arrest records, blotter reports, etc.).

You inform this office that after searching his records, the police chief identified a single traffic citation coming within the ambit of the open records request.<sup>1</sup> You have raised none of the Open Records Act's exceptions to required public disclosure with regard to this document, but you state that you are "reluctant to provide [the] citation for fear that

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<sup>1</sup>We caution that the department's compiling and subsequent release of an individual's criminal history may result in the violation of that individual's privacy interests. *See U.S. Dept. of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989). We note, however, that because traffic citations do not constitute "criminal history information," *see* 28 C.F.R. § 20.20(b)(5), the department is not prohibited from releasing this type of information. *See generally* Open Records Decision No. 465 (1987).

[the requestor] is intending to utilize information received pursuant to his request to locate [the named individual] and cause her harm."<sup>2</sup>

Section 5 of the Open Records Act provides, in pertinent part:

(b) Neither the officer for public records nor his agent shall make any inquiry of any person who applies for inspection or copying of public records beyond the purpose of establishing proper identification and the public records being requested . . . .

(c) The officer for public records or the officer's agent shall treat each request for information uniformly without regard to the position or occupation of the person making the request or the person on whose behalf the request is made or because the individual is a member of the media.

These provisions prohibit the department from taking into consideration the reasons for which the requestor seeks the information. Attorney General Opinion MW-307 (1981); Open Records Decision No. 127 (1976). Consequently, the motives of an individual in seeking specific information are irrelevant as to the question of whether the department must release public information. *See, e.g.*, Open Records Decision No. 508 (1988) (copy enclosed).

You also note that the individual making the open records request is an inmate of the Texas Department of Criminal Justice and inquire whether the department should release the requested information in light of House Bill 2206. House Bill 2206 would have prohibited in certain instances the release of, *inter alia*, any individual's home address to an "inmate." *See* Tex. H.B.2206, 73rd Leg., R.S., § 3. After being passed in the House of Representatives, House Bill 2206 was withdrawn from Senate consideration on May 29, 1993. Consequently, because this bill was never enacted, it is of no effect here.

Although the attorney general will not ordinarily raise an exception that might apply but that the governmental body has failed to claim, *see* Open Records Decision No. 325 (1982), we will raise section 3(a)(1) because the release of confidential information could impair the rights of third parties and because its improper release constitutes a misdemeanor. *See* V.T.C.S. art. 6252-17a, § 10(a). Section 3(a)(1) of the act protects "information deemed confidential by law, either Constitutional, statutory, or by judicial

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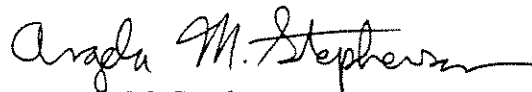
<sup>2</sup>We note, however, that you have not provided this office with any evidence on which you base your concerns.

decision," including information deemed confidential by common-law privacy doctrine. In Open Records Decision No. 169 (1977) (copy enclosed), this office held that although an individual's home address normally may not be withheld from the public on privacy grounds, such information may be withheld upon a demonstration of "truly exceptional circumstances such as, for instance, an imminent threat of physical danger." *Id.* at 6.

You inform this office that you have twice attempted to notify the individual in question by mail of the open records request but have been unable to do so. Absent a demonstration of "truly exceptional circumstances," this office lacks any basis for concluding that this individual's home address as it appears on the traffic citation is protected by common-law privacy. The department must therefore release the traffic citation to the requestor in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Angela M. Stepherson  
Assistant Attorney General  
Open Government Section

AMS/RWP/jmn

Ref.: ID# 20574  
ID# 21037

Enclosures: Open Records Decision Nos. 508, 169

cc: Mr. Stan Hunt  
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(w/o enclosures)